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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,093	02/05/2002	Krishna P. Singh	119959	7482

7590

11/03/2003

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EXAMINER

KRAMER, DEAN J

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 11/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/068,093

Applicant(s)

SINGH ET AL.

Examiner

Dean J. Kramer

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 19-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-11, 13, 15 and 17 is/are rejected.
- 7) ☒ Claim(s) 8, 12, 14, 16 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of the invention of Group I, readable on claims 1-18, in Paper No. 5 is acknowledged. The traversal is on the ground(s) that any search performed for the apparatus (claims 1-18) will likely uncover the same relevant prior art for the process (claims 19-38). This is not found persuasive because when searching for the apparatus claims of the instant application, the intended use of the apparatus does not carry the same patentable weight as it does with method claims.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 19-38 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 5.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5, 6, 9-11, 13, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Weinstein et al..

The patent to Weinstein et al. shows a below grade opening (5) for receiving a cask (1), a cask support means (8), and two lifting jack assemblies (21,22,24,25). It is pointed out that while the Weinstein et al. patent shows all of the *structural* limitations as broadly as recited in the above claims, the intended use of the claimed apparatus (i.e. transferring spent nuclear fuel to a cask) is not deemed to be patentably significant.

5. Claims 1-3, 9, 10, 13, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Lauga et al..

The Lauga et al. patent shows a support means (5) for raising and lowering heavy articles (4) within a below grade opening (1). Further, as pointed out above, the specific intended use of the claimed apparatus of the instant application is not patentably significant.

6. Claims 1-4, 9-11, 13, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Weaver.

Weaver shows a below grade opening for receiving a waste receptacle wherein a vertically moveable support means (67-69) can lower or raise the receptacle.

7. Claims 1-3, 9, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Freneix.

Freneix shows a system for raising and lowering radioactive material within a below grade opening comprising a support means (4) and a means (2A) for moving the support means.

Claim R ejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weinstein et al..

The patent to Weinstein et al. was presented above in section 4 and substantially shows the invention as set forth in claim 7 of the instant application except that the Weinstein et al. assembly shows only two lifting jack assemblies rather than three.

However, it would have been an obvious matter of design choice to form three or more lifting jacks for raising and lowering the Weinstein et al. support means especially since applicant has not specifically disclosed that this particular number of jacks solves any stated problem or is for any critical purpose, and it appears that the device would

Art Unit: 3652

perform equally well as long as the number of jacks was sufficient to lift the cask or the like.

Allowable Subject Matter

11. Claims 8, 12, 14, 16, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weems shows a system for raising and lowering nuclear fuel casks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (703) 308-2181. The examiner can normally be reached on Mon., Tues., Thurs., Fri. (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (703) 308-1113. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Dean J. Kramer 10-28-03
Primary Examiner
Art Unit 3652

djk